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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,070	11/05/2003	Peter Heinrich	038724.52851 US	6313

23911 7590 06/01/2005
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EXAMINER

BAREFORD, KATHERINE A

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/701,070

Applicant(s)

HEINRICH ET AL.

Examiner

Katherine A. Bareford

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-12.
Claim(s) withdrawn from consideration: 13-15.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 5/11/05
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: as to the argument that it would not have been obvious to replace the two step '085 process with a single step '921 process, the Examiner has reviewed these arguments, however, the rejection is maintained. Applicant argues that '085 teaches application of a high temperature mixed oxide-plastic coating to a highly heat conductive target and then, after sufficient heat has been conducted away to prevent damage to the plastic top coating, applying the desired highly anti-adhesive plastic layer over the mixed layer. The Examiner has reviewed the '085 reference, but sees no indication that the mixed oxide-plastic coating is used for heat conducting. The abstract provides that the plastic is mixed in with the oxides to prevent the formation of pores and to give an antiadhesive property. As applicant has not provided where in '085 the use of the mixed oxide-plastic coating is used for heat conducting, the Examiner finds that the plastic is mixed in with the oxides for the reasons given in the abstract, and there is no indication that '085 teaches conducting heat away from the top layer in contrast with the teaching of '921. As to the teaching of '921, as discussed in the Final Rejection, it is the Examiner's position that the reference shows that it is known to provide a graded middle layer of plastic-oxide when starting with a bottom layer of one material and ending with a top layer of the other material. It remains the Examiner's position that it is well known in the art of thermal spraying that grading in such a fashion prevents abrupt changes in stress, thermal expansion and elastic modulus between the applied layers, which can lead to failure of the coating. The concern with a specific amount heat conduction away from the plastic top layer is not claimed. Instead, using the graded coating for its well known benefits would be suggested. As to the argument that there is a long felt need for this process, this does not rise to the level of showing required by MPEP 716.04, which indicates that establishing long felt need requires objective evidence based on several factors (see the discussion in MPEP 716.04). Here, for example, no objective evidence is shown.


KATHERINE BAREFORD
PRIMARY EXAMINER